

these programs before Congress adjourns.

I am proud to speak out on behalf of the real intent of H.R. 2614 which would help small businesses succeed. There is an old proverb used in my state of South Dakota which advises; "Don't put off until tomorrow what can be done today." Today, we should strip out the politically charged amendments that have been tacked onto this bill and pass legislation both parties agree is important to our economy, our local communities, and many businesses and families across the country.

It is careless not to reauthorize these important programs because of election year politics which bogged down the legislation with unrelated issues. Congress should vote on the genuine issues with regard to small business programs. We must not let certain partisan differences cause us to turn away from our opportunity to promote the entrepreneurial spirit of our country.

There are many issues before this body which evoke strong differences of opinion, however, authorizing these important small business programs are not among them. I urge my colleagues to join me in securing the passage of this important legislation and not allow these widely supported initiatives to fall victim to nonrelated amendments thrown together in the closing days of Congress.

DIRECT-TO-CONSUMER ADVERTISING AND RISING PRESCRIPTION DRUG PRICES

Mr. JOHNSON. Mr. President, anyone who has lived or visited in the United States during the last few years has been exposed to a phenomenon which is uniquely American. I speak of the direct-to-consumer advertising of prescription medicines.

U.S. pharmaceutical manufacturers will spend an amount this year very close to \$2 billion on advertising to the general public. This can be compared to about just \$150 million in 1993—which explains why no one can avoid these advertisements even if they wanted to. They are ubiquitous—TV, radio, newspapers, and magazines are all replete with prescription drug ads.

Typically, the drugs that are most heavily advertised are among those that ultimately are the most heavily prescribed. According to a recently released National Institute for Health Care Management study, for example, the seven drugs in 1999 which had more than \$1 billion in sales were advertised an average of \$58.5 million each. Together, they contributed an estimated 24.3 percent toward the increases in total expenditures of prescription drugs during 1999.

Clearly, advertising works, just as it always has.

Advocates of this relatively new technique to increase name brand pre-

scription sales will say that consumers become more aware of treatment possibilities and may have a better starting point for discussion with their physicians. Other observers believe this practice artificially increases demand from consumers who are still not fully educated enough to know about less expensive, or maybe even safer, alternatives. Certainly, the advertising costs are passed along to the consumer.

Is the information value worth the yearly increases in drug costs that advertising inevitably causes? Are patients getting the best individualized choices of medicines or the just best advertised ones? Are generic drugs, often an excellent cost-effective alternative, getting equal consideration?

Frankly, I have my concerns about this practice. Many professional organizations have gone on record as opposing the kinds of direct-to-consumer advertising that goes on today. I believe it bears very close watching and we all need to closely scrutinize its value and its place within the health care system.

NEW JERSEY STORMWATER MANAGEMENT PROJECT

Mr. TORRICELLI. Mr. President, I rise today regarding a matter of great importance to the entire State of New Jersey. My home state is confronted with an array of complex challenges related to the environment and economic development. However, one issue in particular, the over development of land and stormwater management, has become especially concerning because of the impact it is having on our watersheds and floodplains.

As you may know, this past August vast parts of northern New Jersey were devastated by flooding caused by severe rainfall. The resulting natural disaster threatened countless homes, bridges and roads, not to mention the health, safety and welfare of area residents. The total figure for damages in Sussex and Morris Counties alone has been estimated at over \$50 million, and area residents are still fighting to restore some degree of normalcy to their lives. According to the Federal Emergency Management Agency, in just those two counties, 34 dams were damaged, 6 bridges were damaged and 4 were destroyed, and 10 municipal buildings were damaged.

While the threat of future floods continues to plague the region, one New Jersey institution is taking concrete steps to prevent another flooding catastrophe. The New Jersey Institute of Technology, NJIT, has been studying the challenges posed by flooding and stormwater flows for some time, and is ready to create a multi-agency federal partnership to continue this important research.

NJIT is one of New Jersey's premier research institutions and is uniquely

equipped to carry out this critical stormwater research. The university has a long and distinguished tradition of responding to difficult public-policy challenges such as environmental emissions standards, aircraft noise, traffic congestion and alternative energy. More broadly, NJIT has demonstrated an institutional ability to direct its intellectual resources to the examination of problems beyond academia, and its commitment to research allows it to serve as a resource for unbiased technological information and analysis. Indeed, I originally requested that NJIT be given the funds to take on this Stormwater flood control and management project.

Despite that, the 2000 Water Resources Development Act, WRDA, still presents an excellent opportunity for NJIT to partner with the federal government and solve the difficult problem of flood control. At my request, and in close coordination with my House colleagues from the state delegation, the final version of this important legislation includes a provision directing the U.S. Army Corps of Engineers to develop and implement a stormwater flood control project in New Jersey and report back to Congress within three years on its progress. While the Corps of Engineers is familiar with this problem at the national level, it does not have the first-hand knowledge and experience in New Jersey that NJIT has accrued in its 119 years of service to New Jersey. Including NJIT's expertise and experience in this research effort is a logical step and would greatly benefit the Army Corps, as well as significantly improve the project's chances of success.

Therefore, I urge the New York District of the Corps of Engineers to work closely with my office and NJIT to ensure the universities full participation in this study. By working together, we can create a nexus between the considerable flood control expertise of the Army Corps and NJIT, and finally solve this difficult problem for the people of New Jersey. I hope my colleagues will support my efforts in this regard.

SENATE'S FAILURE ON JUDICIAL NOMINATIONS IN 106TH CONGRESS

• Mr. LEAHY. Mr. President, of the 105 judicial vacancies that have occurred so far this year, the Senate has acted to fill only 39. The last year of the Bush Administration, a presidential year in which we had the reverse situation with a Republican President and a Democratic Senate, the Senate confirmed 66 judges—70 percent more than the number confirmed this year. Over the 2-year span of this Congress, the Senate will have confirmed only 73 judges. By contrast, the Democratic Senate in the last two years of President Bush's Administration confirmed 124 judges—70 percent more judges than

the number confirmed by this Congress. Indeed, in the last eleven weeks of Congress in 1992, a Democratic Senate held four judicial nominations hearings and confirmed 29 judges. In the last eleven weeks of this Congress, Republicans will have managed to hold no hearings and confirm no judges.

President Clinton has tried to make progress on bringing greater diversity to our federal courts. He has been successful to some extent. With our help, he could have done so much more. We will end this Congress without having acted on any of the African American nominees sent to us to fill vacancies on the Fourth Circuit and finally integrate the Circuit with the highest percentage of African American population in the country, but the one Circuit that has never had an African American judge. We could have acted on the nomination of Kathleen McCree Lewis and confirmed her to the Sixth Circuit to be the first African American woman to sit on that Court. Instead, we will end the year without having acted on any of the outstanding nominees to the Sixth Circuit pending before us.

This Judiciary Committee reported only three nominees to the Courts of Appeals all year. We held hearings without even including a nominee to the Courts of Appeals and denied a Committee vote to two outstanding nominees who succeeded in getting hearings. I certainly understand the frustration of those Senators who know that Roger Gregory, Judge James Wynn, Kathleen McCree Lewis, as well as Judge Helene White, Bonnie Campbell and others should have been considered by this Committee and voted on by the Senate this year.

There continue to be multiple vacancies on the Third, Fourth, Fifth, Sixth, Ninth, Tenth and District of Columbia Circuits. With 24 current vacancies, our appellate courts have nearly half of the total judicial emergency vacancies in the federal court system. I note that the vacancy rate for our Courts of Appeals is more than 12 percent nationwide. If we were to take into account the additional appellate judgeships included in the Hatch-Leahy Federal Judgeship Act of 2000, S. 3071, a bill that was requested by the Judicial Conference to handle current workloads, the vacancy rate on our federal courts of appeals would be more than 17 percent.

The Chairman declares that "there is and has been no judicial vacancy crisis" and that he calculates vacancies at "less than zero." The extraordinary service that has been provided by our corps of senior judges does not mean there are no vacancies. In the federal courts around the country there remain 66 current vacancies and 12 more on the horizon. With the judgeships included in the Hatch-Leahy Federal Judgeship Act of 2000, there would be

over 135 vacancies across the country. That is the truer measure of vacancies, many of which have been long-standing judicial emergency vacancies in our southwest border states. The Chief Judges of both the Fifth and Sixth Circuits have had to declare their entire courts in emergencies since there are too many vacancies and too few Circuit judges to handle their workload.

After creating 85 additional judgeships in 1990, Congress reduced the vacancies from 131 in 1991, to 103 in 1992, to 112 in 1993, to 63 in 1994. Vacancies were going down and we were acting with Republican and Democratic Presidents to fill the 85 judgeships created by a Democratic Congress under a Republican President in 1990. We will end this session with more vacancies than at the end of the session in 1994, without having added the judgeships requested by the Judicial Conference. Since Republicans assumed control of the Senate in the 1994 election, the Senate has not closed the vacancy gap at all and the workloads in many of our courts have gotten significantly worse. More vacancies are continuing longer, and it has taken longer to confirm nominees to existing vacancies. We have lost ground and squandered opportunities for progress in the past six years.

As I have pointed out, the vacancies are most acute among our Courts of Appeals and in our southwest border States. We have not acted to add the judgeships requested by the Judicial Conference to meet increased workloads over the last decade. According to the Chief Justice's 1999 year-end report, the filings of cases in our Federal courts have reached record heights. In fact, the filings of criminal cases and defendants reached their highest levels since the Prohibition Amendment was repealed in 1933. Also in 1999, there were 54,693 filings in the 12 regional Courts of Appeals. Overall growth in appellate court caseload last year was due to a 349 percent upsurge in original proceedings. This sudden expansion resulted from newly implemented reporting procedures, which more accurately measure the increased judicial workload generated by the Prisoner Litigation Reform Act and the Antiterrorism and Effective Death Penalty Act, both passed in 1996.

I regret to report again today that the last confirmation hearing for federal judges held by the Judiciary Committee was in July, as was the last time the Judiciary Committee reported any nominees to the full Senate. Throughout August, September, October, and now into November, there were no additional hearings held or even noticed, and no executive business meetings included any judicial nominees on the agenda. By contrast, in 1992, the last year of the Bush Administration, a Democratic majority in the Senate held three confirmation hear-

ings in August and September and continued to work to confirm judges up to and including the last day of the session. During that presidential election year the Senate confirmed 66 judges; this year the Senate will not reach 40.

I continue to urge the Senate to meet its responsibilities to all nominees, including women and minorities. That highly-qualified nominees are being needlessly delayed is most regrettable. The Senate should have joined with the President to confirm well-qualified, diverse and fair-minded nominees to fulfill the needs of the federal courts around the country.

I regret that the Judiciary Committee did not hold additional hearings after July, that the Senate only acted on 39 nominees all year, and that we took so long on so many of them. I deeply regret the lack of a hearing and a vote on so many qualified nominees, including Roger Gregory, Judge James Wynn, Judge Helene White, Bonnie Campbell, Enrique Moreno and Allen Snyder. The Senate squandered a number of important opportunities to help our courts and should have accorded these qualified and outstanding nominees fair up or down votes.●

INTERNET FALSE IDENTIFICATION PREVENTION ACT OF 2000

● Mrs. FEINSTEIN. Mr. President, I am pleased to have worked with Senator COLLINS on Senate passage of S. 2924, the "Internet False Identification Prevention Act of 2000." This legislation is an important step forward in the fight against identity theft.

"The Internet False Identification Prevention Act of 2000" recognizes that the crime of identity theft has entered the Internet age, and that the Federal government has a responsibility to bring our identity theft laws up to speed. The primary law governing false identification documents was enacted in 1982, well before the advent of websites and e-mail.

Specifically, this legislation prohibits individuals from knowingly producing, distributing, or offering for download from the Internet computer files or templates that are designed to make counterfeit identification documents.

While the total number of false identification documents sold on the Internet is unknown, purveyors of false identification documents have used the Internet to sell their wares to a much broader market, and to distribute these documents as quickly as they can be downloaded from a website. According to a study by the Senate Committee of Government Affairs, one web site operator reported that he sold 1,000 fake IDs a month yielding \$600,000 in annual sales.

The "Internet False Identification Prevention Act of 2000" also closes a loophole in current law that permitted